

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2005-332-E - ORDER NO. 2005-635  
OCTOBER 31, 2005

IN RE: Petition of Duke Power, a Division of Duke Energy Corporation for a Declaratory Order	) ORDER GRANTING ) PETITION FOR ) DECLARATORY ORDER )
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This matter comes before the Public Service Commission of South Carolina (the Commission) on the Petition for a Declaratory Order filed by Duke Power, a division of Duke Energy Corporation (Duke or the Company). Duke requests that this Commission find that Duke's planned replacement of certain of the combustion turbines located in Duke's steam-electric-generating plant located on the Saluda River in Anderson County, South Carolina, known as the Lee Steam Station does not require this Commission to issue a Certificate of Environmental Compatibility and Public Convenience and Necessity (Certificate). Duke argues that pursuant to S.C. Code Ann. Section 58-33-110(1) (the Siting Act), no hearing and no notice is required because the replacement of the turbines does not constitute the construction of a major utility facility, in that the replacement of the existing turbines constitutes a replacement of an existing facility with a like facility.

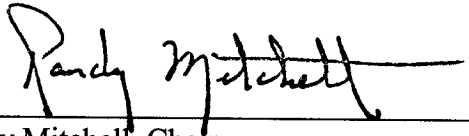
The Office of Regulatory Staff (ORS) reviewed this matter, and does not object to the request. The Company is replacing three older combustion turbine units with a total capacity rating of approximately ninety megawatts with two new combustion turbines

with a total capacity rating of approximately eighty-two megawatts. According to ORS, these turbines provide a critical emergency power back-up function for the Oconee Nuclear Station. Due to the age of the three existing units, thirty to forty years, the Company states that it is difficult and expensive to maintain an adequate inventory of replacement parts. The Company indicates that it has applied for and received the appropriate construction permit for these two new proposed units. As ORS states, there is an exception to the Siting Act which allows that replacement of an existing facility with a like facility, as determined by the Commission, shall not constitute construction of a facility subject to the Act. ORS states its belief that the replacement units described here fall under the exception to the Act.

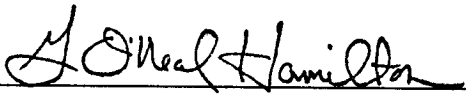
We agree with the Office of Regulatory Staff on this matter. Based on the description provided by the Company, the matter described constitutes replacement of an existing facility with a like facility, since it is a replacement of existing turbines with other turbines. Accordingly, we grant the Petition for Declaratory Order, and declare that the matter described constitutes replacement of a like facility, and therefore no hearing and no notice is required, pursuant to the Siting Act. Further, no Certificate need be issued.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
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Randy Mitchell, Chairman

ATTEST:

  
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G. O'Neal Hamilton, Vice-Chairman

(SEAL)